

REMARKS

In accordance with the foregoing, claim 1 has been amended. Claims 1-6 are pending and under consideration. No new matter is being added.

EXAMINER INTERVIEW

Applicants thank Examiner for granting the Interview conducted on October 23, 2008. In view of the discussion of potential amendments which would overcome the cited art of record, Applicants herein submit the following remarks and amendments for consideration.

REJECTION UNDER 35 U.S.C. § 103

Claims 1-5 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Iwazawa, Japanese Patent Publication No. 08-0550914, in view of Niikura, Japanese Patent Pub. No. 06-196176; claim 6 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over Iwazawa, in view of Niikura, and further in view of Okuyama, Japanese Patent Pub. No. 06-196172; claim 5 is rejected under 35 U.S.C. § 103(a) as being unpatentable over Iwazawa, in view of Niikura, as applied to claim 1 and further in view of Ishihara, U.S. Patent No. 5,114,4803. These rejections are respectfully traversed.

Claim 1 at least recites:

said at least two fuel cells being mutually arranged in such a manner that said anode layer of one of said fuel cells faces said anode layer of another, adjacent fuel cell, with a completely unobstructed predetermined space between them and said space extends from a lower position to an upper position

The Office Action cites to paras. [0031]-[0035] and FIG. 4 of Iwazawa as describing the above claimed feature.

Here, Iwazawa describes only fuel electrodes of an inside cel and an outside cel countering mutually. As shown in FIG. 4, the air electrodes 51b and 52b do not face each other. Therefore, the Office Action appears to be interpreting the fuel electrodes 51c and 52c of Iwazawa as being equivalent to the claimed "anode layer."

As shown in FIG. 4 of Iwazawa, the space 56, between fuel electrodes 51c and 52c of Iwazawa is described as a fuel gas passage where fuel gas is supplied. Iwazawa appears to describe hydrogen gas as the fuel gas in paras. [0024] and [0035]. Further, Iwazawa describes in para. [0034] that a gap exists between the inside cel 51 and the outside cel 52, and that nickel felt 55 is positioned in a portion of this gap.

Thus, Applicants submit that the space between the fuel electrodes 51c and 52c is not a completely unobstructed space as at least nickel felt 55 is shown as being located there. Therefore, Applicants submit that Iwazawa fails to describe or suggest the claimed "at least two fuel cells being mutually arranged in such a manner that said anode layer of one of said fuel cells faces said anode layer of another, adjacent fuel cell, with a completely unobstructed predetermined space between them and said space extends from a lower position to an upper position."

Further, Applicants submit that the proposed combination of the fuel cell structure of Iwazawa to include the flame discussed in Niikura would render Iwazawa unsatisfactory for its intended purpose. See M.P.E.P. § 2143.01(V).

The Office Action relies upon Niikura to describe or suggest a flame formed in the space between the anodes. Under the Office Action's apparent interpretation of anodes in Iwazawa, such a flame of Niikura would be introduced to the fuel gas passage 56 of Iwazawa. As Iwazawa describes that a nickel felt 55 exists in this fuel gas passage 56, Applicants submit that introducing the flame of Niikura to the fuel gas passage 56 of Iwazawa may ignite the nickel felt, or otherwise cause high temperatures leading to an instability in the electrochemical process intended to occur in Iwazawa. See Iwazawa, para. [0003].

Further, Iwazawa describes that hydrogen gas is a fuel gas passed in the fuel gas passage 56, however the Office Action further appears to interpret the fuel gas passage 56 of Iwazawa as describing the claimed "said space defined between the adjacent anode layers being an open space at the upper position where the flame extends and being an open space at the lower position " by being open at the top and bottom. Although, Iwazawa fails to describe that the fuel gas passage 56 is open at the top and bottom, Applicants submit that if this were so, with hydrogen gas being mixed with air, introducing the flame of Niikura would further lead to an instability in the electrochemical process intended to occur in Iwazawa, by potentially causing an explosion of the hydrogen gas, oxidized by the air and flame.

The above described instabilities introduced into Iwazawa by adding the flame of Niikura would at least present a technical difficulty which Applicants submit one of ordinary skill in the art could not have overcome by known methods. See M.P.E.P. § 2141.

Therefore, for the above reasons, Applicants further submit that there lacks a reason to combine the references of Iwazawa and Niikura.

In view of the above remarks, Applicants submit that claim 1 patentably distinguishes over the cited art.

Regarding claim 6, Applicants respectfully submit that Okuyama fails to cure the above described deficiencies of Niikura and Iwazawa as described above regarding claim 1.

Regarding claim 5, Applicants respectfully submit that Ishihara fails to cure the above described deficiencies of Niikura and Iwazawa as described above regarding claim 1.

Thus, as claims 2-6 depend directly from claim 1 and include all of the features of claim 1 plus additional features which are not taught or suggested by the cited art, it is submitted that claims 2-6 patentably distinguish over the cited art.

Favorable reconsideration and a withdrawal of the rejection against claims 1-6 are respectfully requested.

CONCLUSION

There being no further outstanding objections or rejections, it is submitted that the application is in condition for allowance. An early action to that effect is courteously solicited.

Finally, if there are any formal matters remaining after this response, the Examiner is requested to telephone the undersigned to attend to these matters.

If there are any additional fees associated with filing of this Amendment, please charge the same to our Deposit Account No. 19-3935.

Respectfully submitted,

STAAS & HALSEY LLP

Date: 11/3/2008

By: Michelle M. Koeth
Michelle M. Koeth
Registration No. 60,707

1201 New York Avenue, N.W., 7th Floor
Washington, D.C. 20005
Telephone: (202) 434-1500
Facsimile: (202) 434-1501